IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8825 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

S M EDUCATION TRUST - Petitioner(s)
Versus
SECRETARY EDUCATION DEPTT AND ORS & 2 - Respondent(s)

==========

Appearance :
MR MP PRAJAPATI for Petitioner(s) : 1,
MS MANISHA L SHAH AGP for Respondent(s) : 1 - 3.

==========

CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 01/11/2006

ORAL JUDGMENT

1. The petitioner trust runs a secondary school for girls for which necessary permission is received by the petitioner from the respondents. The petitioner claims grant from the Government for the said school. It is not in dispute that the petitioner was granted permission to start the school by the order dated 16/10/1999 on the condition that the petitioner shall not receive any grant from the Government.

2. Learned advocate for the petitioner submitted that the petitioner is running a school for girls and is a Hindi medium school and is thus a minority school. He submitted that as per the Government policy also such school received consideration for being converted into grant in aid school.

3. Learned Asst. Government Pleader Ms. Shah supported the Government action.

4. Both learned advocates pointed out that this Court by common judgment dated 5/7/2006 passed in

Special Civil Application 6381/98 and connected matters had examined similar issues and had given certain directions. This Court had taken note of the decision of the Government to lay down an appropriate policy for consideration of the cases as special cases for conversion from non-grant-in-aid to grant-in-aid institutions. This Court had held that though such institutions have no vested right to insist on receiving grant, nevertheless they have a right for being considered for receipt of grant as per the Government policy. Ultimately this Court gave following directions.

> "18.Under the circumstances, these petitions are disposed of by giving following directions:
>
> i) The Government shall issue a G.R. laying down its policy for considering the cases as special cases for conversion from non-grant-in-aid to grant-in-aid institutions. Such a G.R. shall be issued along the line of the affidavit-in reply filed by Shri P.Panneervel on 8th March, 2006. This shall be done within a period

of four weeks from the date of receipt of a copy of this order.

ii) In all future cases, application of interested institutions shall be considered by the competent authority applying the guidelines so laid down by the Government.

iii) While considering such applications, either accepting or rejecting, the authorities shall record and communicate the applicant its brief reasons for the conclusion.

iv) The applications of all the petitioners except those wherein the institutions have been closed down will be considered by the Government in light of the policy that may be circulated. Such consideration shall be prospective and on the basis of the Government policy being framed. Such consideration shall be expeditious and the concerned institutions will be communicated the outcome thereof within a period of eight weeks from the date of receipt of a copy of this order.

v) Till the Government formulates its policy, the interim injunction granted by this Court by the order

> dated 13.2.2006 not to grant any further applications to any of the institutions shall continue. It is, however, clarified that once the Government policy is formulated as mentioned above, it will be open for the Government to consider all cases on the basis of such policy."

5. Case of the petitioner is similar. The petitioner should also receive appropriate consideration by the Government. Such consideration shall be after bearing in mind the above observations and directions.

6. For the above purpose, the present petition may be treated as representation of the petitioner. Such representation be disposed of expeditiously and preferably within a period of two months from the date of receipt of a copy of this order. It will be open for the petitioner to place additional material on record. If so done within a period of one week from service of copy of this order, the same shall also be borne in mind by the Government before taking final decision in this regard. With these directions, the petition is partially allowed and

disposed of accordingly. Rule is made absolute to the above extent.

Direct Service is permitted.

(Akil Kureshi, J.)

/smita/